2608.

SUPREME COURT OF THE UNITED STATES.

No. 226.

WILLIAM F. WALKER AND SAMUEL M. PUCKETT, APPELLANTS,

vs.

GEORGE S. ROBBINS, LLOYD W. WELLS, ABIJAH FISHER, AND ROBERT H. McCURDY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

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WILLIAM F. WALKER et al.
vs.
GEORGE S. ROBBINS et al.

Pleas before the honorable Peter V. Daniel and Samuel J. Gholson, judges of the circuit court of the United States, held at the town of Jackson, in and for the ninth circuit and southern district of Mississippi, at the May term, in the year of our Lord one thousand eight hundred and fifty-one.

Be it remembered, that heretofore, to wit, on the 15th day of April, A. D. 1842, the complainants, by (Lombard and Howard,) their solicitors, filed their bill of complaint herein against the said defendants, in the words and figures following, to wit:

To the honorable judges of the United States district court, for the southern district, in the State of Mississippi, or either of them, sitting in chancery.

The bill of complaint of William F. Walker, Samuel M. Puckett, and John Long, against George S. Robbins and Samuel Painter, surviving partners of the late firm of Robbins, Painter & Co., citizens of and residents in the State of New York.

Your orators, William F. Walker, Samuel M. Puckett, and John Long, citizens of the State of Mississippi, and the district aforesaid, would respectfully represent to your honors, that on or about the 15th of December, A. D. 1838, your orator with one K. Saunders, one S. M. Puckett, and one John Long, became sureties for one John Shields, upon a note payable to the order of Robbins, Painter and Company, on or before the first day of March, 1840, for six thousand dollars, and a copy of which note is hereunto annexed, marked exhibit A, and prayed to be taken as a part of this bill of complaint.

And your orators would further represent to your honors, that said note was executed and delivered under the following circumstances: That one Nathaniel Green, who was then one of the firm of said Robbins, Painter & Co., was at Jackson at the time said note bears date, and at which time one W. O. Demoss, then sheriff of the county of Hinds, had in his hands several executions against the said Shields, and which executions the said Demoss had levied upon the property of Shields and had advertised, and was about to sell the same property at public sale to satisfy said executions; that said Demoss proposed to Shields, that he would receive the bills of the Mississippi and Alabama Railroad Company in payment of said executions; that said Green informed the said Shields, that he had a large amount of the bills of said company at Natchez, and that he would loan him, Shields, six thousand

dollars of said bills, if he, Shields, would procure him a note with the names of your orators, said Saunders, Puckett, and Long, as sureties; that the note was accordingly made and delivered to said Green, and when it was so delivered, it was agreed by and between said Green, Shields, and some of the said sureties, that said Green might take the note with him to said Natchez, and that said Green should forthwith thereafter cause the said $6,000 in the bills of said company to be delivered to said Shields at said Jackson, and that in pursuance of said agreement said Green received said note and started for said Natchez on or about the time said note bears date, promising said Shields that as soon as he *could* possibly could, he would deliver said $6,000 in said bills to Shields at Jackson.

And your orator would further state to your honors that, as he was always informed by said Shields, and which he charges as true, said Green never did deliver said bills, or any part thereof, to said Shields, and that the consideration agreed by the said Green to be given for said note had wholly failed; and your orator would further state to your honors, that after the said note was made and the said agreement entered into by said Green for the delivery of said bills as above stated, the said Shields relied wholly upon said bills for the payment of said executions, and that by reason of said agreement said Shields was induced to rely upon said bills for the purpose above stated, and was thereby prevented from making any other or further provisions for the payment of said executions; and that said Green, not furnishing the said Shields with said bills as agreed, the said Demoss sold a very large amount of property belonging to said Shields, at a great sacrifice, to satisfy said executions.

Your orator would further represent to your honors, that the said Green and said Shields departed this life some time before said note became due and payable, and that said Shields repeatedly, during his lifetime, assured your orator, and which your orator believes and charges to be true, that he, Shields, had never received any part or portion of said bills of said company of said Green for said note; nor had he, the said Shields, received any consideration whatever of said Green, or said Robbins and Painter, for said note.

And your orator would further represent to your honors, that, with the exception of the assurance of the said Shields that the said bills had never been received by him, and that said Green had retained the said note without giving any consideration for the same, and that your orator would never be troubled by said note, your orator had not heard or knew more respecting said note until he was informed that a judgment had been rendered against him, upon said note, in the circuit court of the United States for the southern district of Mississippi, and copy of which judgment, and of all the proceedings had in the suit upon said note, is hereunto annexed and marked exhibit B, and prayed to be taken as a part of this bill of complaint.

And your orator would further represent to your honors, that notwithstanding the writ in said suit purports to have been executed upon

him, yet your orator denies positively that any service was made upon him, or that he had any notice of the pendency of a suit upon said note, and that if he had had, he would have taken the necessary and proper measures to have defended said suit successfully.

Your orator says, true it is, upon examining the papers in said suit, he finds that a plea was filed including his name, but that his name was embraced in said plea without his knowledge or consent, and that as he did not know of the commencement or pendency of said suit, he never authorized any person to appear for or represent him in said suit; your orator would further represent that, upon inquiring of David Shelton, esq., by whom said plea was signed, he learnt that said Shelton filed said plea at the instance and request of John Long, one of the signers of said note, and not at the request of this complainant.

Your orator would further represent to your honors, that since he made the discovery that judgment had been rendered against him upon said note, for the sum of $6,820, he has learnt that one Keatly Saunders, residing in the State of Arkansas, was knowing to all the circumstances connected with the making of said note, the agreement under which it was delivered to Green, and that Green failed to deliver the bills of said company to said Shields, as this complainant has herein before stated.

And that your orator was wholly ignorant of the facts to which said Saunders would testify until some days after he discovered that the said judgment had been rendered against him.

Your orator would further represent to your honors that, at the time said note was made, the bills of said Mississippi and Alabama Railroad Company were not worth more than fifty, or at most sixty, cents on the dollar; and that if they had been delivered to said Shields under the aforesaid agreement, it would have been under a corrupt and usurious contract, whereby the said Greene attempted to convert uncurrent and depreciated paper, and for which he had no security, and which was only worth to him fifty or sixty cents upon the dollar, at its nominal value, in gold or silver; and that the said Robbins & Painter, in attempting to collect said note of your orator, are endeavoring to enforce a corrupt and usurious contract made in violation of good conscience and of the laws of the land, provided said money was advanced in pursuance of said agreement. And your orator, believing said note never came properly into the hands of said Painter & Robbins, and that they have no right to enforce the collection of the same, prays your honors that to the end that justice may be done in the premises, that said Robbins & Painter may be required to make full discovery under oath as to how said note came into their possession; whether it was or was not found among the papers of said Green after his decease; and if it was, what memorandum, if any, was found with it; or whether any entry was or was not found upon the book or journal of said Green relating to it, and if so, to state said entry; and to state the entry, if any appears upon the book of said firm of Robbins, Painter & Co., respecting said note; and finally, to make full and perfect discovery of all

they know relative to said note; and of all papers and entries they have respecting the same, of all other charges in this bill.

And your orator would make known to your honors, that if [it] should be made to appear that said bills were actually delivered to said Shields by said Green, your orator is ready and willing to pay to the said Robbins & Painter whatever might have been the true value of the said bills at the time they were delivered, in gold or silver, and interest thereon, and he hereby offers to do the same.

And your orator would represent to your honors, that if he had known of the pending of said suit in the circuit court, he could not have availed himself of Keotty Saunders's testimony in the defence of said suit at law, as he is advised, inasmuch as the said Saunders was a party to the record, as appears from an examination of the same, up to the time of putting the cause to the jury, when the plaintiffs discontinued as to Saunders.

And your orator would further represent to your honors, that the said Robbins & Painter have sued out their writ of execution upon the aforesaid judgment at law, and delivered the same to the marshal of the said district, and are about to proceed to enforce said execution by levy upon your orator's property.

That inasmuch as your orator is remediless at law, and can only obtain relief in a court of chancery, where such matters are cognizable, your orator prays your honors to award a writ of subpœna to bring the said Robbins & Painter into court, to the end that they may answer this bill.

And your orator further *further* prays your honors for an injunction restraining the said plaintiffs in said judgment, and the marshal of your said court from all further proceedings in said judgment until the final hearing of this cause. And that, on the hearing of this bill, your orator prays your honor that the said plaintiffs may be perpetually enjoined against all further proceedings upon said judgment, or for a new trial of said suit at law, as to your honors may seem most meet and proper; and for such other and further relief in the premises as your honors may think proper to grant, and as equity and justice may require.

LOMBARD & HOWARD,
Counsel for complainant.

STATE OF MISSISSIPPI,
Hinds county.

This day personally appeared William F. Walker before me, Lewis L. Taylor, an acting justice of the peace for said county, and made oath that all of the matters and things set forth in the foregoing bill of complaint, as known to him, are true; and that all the matters and things which he has therein stated upon the information of others he believes to be true.

W. F. WALKER.

February 3d, 1842.

LEWIS L. TAYLOR,
Justice of the peace and ex officio not. pub.

Exhibit A.

Dollars 6,000. JACKSON, *December 15th*, 1838.

On or before the first day of March, eighteen hundred and forty, we, or either of us, promise to pay to the order of Robbins, Painter & Co., six thousand dollars for value received, being for money loaned, payable and negotiable at the Mississippi Union Bank, at Jackson, Mississippi.

1947, due ¼ March, 1840.

JOHN SHIELDS,
W. F. WALKER,
K. SAUNDERS,
S. M. PUCKETT,
JOHN LONG.

To the clerk of the circuit court of the United States, for the 9th circuit and southern district of Mississippi.

Let injunction and subpœna issue as prayed for in the foregoing bill, upon the complainants entering into bond in a penalty equal to double the amount of the judgment at law, with Volney E. Howard as their security conditioned according to law.

Given under my hand this 5th day of February, 1842.

S. J. GHOLSON,
Judge U. S. D. C., for Mississippi.

"*Bond.*"

UNITED STATES OF AMERICA,

Southern district of Mississippi, sct.

Know all men by these presents, that we, William F. Walker, Samuel M. Puckett, John Long, and Volney E. Howard, are held and firmly bound unto George S. Robbins and Samuel Painter, in the just and full sum of fourteen thousand dollars, lawful money of the United States, to be paid to the said George S. Robbins and Samuel Painter, executors, administrators, or assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated the 15th day of April, A. D. 1842.

The condition of this obligation is such, that whereas the above bound Wm. F. Walker, Samuel M. Puckett, and John Long have obtained from the honorable Samuel J. Gholson, one of the judges of the circuit court of the United States, for the southern district of Mississippi, an injunction to stay all further proceedings at law in a certain judgment in said court, against the said Walker, Puckett, and Long, at the suit of the said Robbins and Painter, for $6,820 00 damages, besides interest and costs.

Now, if the said Wm. F. Walker, Samuel M. Puckett, and John

Long, or either of them, in case the said injunction shall be dissolved, shall well and truly pay all money and costs due, and to become due, to the said George S. Robbins and Samuel Painter, the plaintiffs in the said judgment, and also all such costs and damages as shall be awarded against them, then this obligation to be void, otherwise to be and remain in full force and virtue.

W. F. WALKER, [L. S.]
S. M. PUCKETT, [L. S.]
JOHN LONG, [L. S.]
VOLNEY E. HOWARD. [L. S.]

Sealed and delivered in the presence of—
GEO. W. MILLER.

Filed and approved April 19, 1842.
GEO. W. MILLER, *D. C.*

"*Injunction.*"

UNITED STATES OF AMERICA,
Southern district of Mississippi, ss.

The President of the United States, to Geo. S. Robbins and Samuel Painter, your counsellors, attorneys, and agents, greeting:

Whereas it hath been represented to us, in our circuit court, for the ninth circuit and southern district of Mississippi, in chancery sitting, on the part of William F. Walker, Samuel M. Puckett, and John Long, complainants, that they lately exhibited their bill of complaint against you, the said George S. Robbins and Samuel Painter, defendants, to be relieved touching the matters in said bill contained. We, therefore, in consideration of the premises and of the allegations in said bill contained, strictly enjoin and command you, the said Robbins and Painter, your counsellors, attorneys, and agents as aforesaid, under the penalty of five hundred dollars, to be levied of your goods and chattels, lands and tenements, to our use, that you absolutely refrain from proceeding to collect a judgment obtained by you, said Robbins and Painter, against said Walker, Puckett, and Long, at November term, 1841, for $6,820 00, besides interest and costs, and from enforcing the execution thereon now in your hands, and from any and all further proceedings against the said complainants, touching the matters in said bill contained, until our said court shall make another order to the contrary.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Jackson, the first Monday of *in* November, A. D. one thousand eight hundred and [L. S.] forty-one, and in the 66th year of the independence of the United States.

Issued the 19th day of April, A. D. 1842.
W. H. BROWN, *Clerk*,
By GEO. W. MILLER, *D. C.*

Marshal's return.

Received 19th April, 1842.

A. MILLER, *Marshal*,
By deputy J. S. GOOCH.

"*Subpœna.*"

UNITED STATES OF AMERICA,
Southern district of Mississippi, ss.

The President of the United States, to Geo. S. Robbins and Samuel Painter, greeting:

For certain causes offered before us, in our circuit court for the southern district of Mississippi, sitting in chancery, we command you, that laying all other matters aside, and notwithstanding any excuse, you personally appear at our circuit court, in and for said district, sitting in chancery, to be held at the town of Jackson, on the first Monday of May, to answer to a bill of complaint exhibited against you by William F. Walker, Samuel M. Puckett, and John Long, complainants, in our said court; and further to do and receive what our said court shall consider in this behalf; hereof fail not, as you will answer the contrary at your peril.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Jackson, the first Monday of November, A. D. one thousand eight hundred and forty-one, and in the 66th year of the independence of the United States.

[L. S.]

Issued 19th day of April, A. D. 1842.

W. H. BROWN, *Clerk*,
By GEO. W. MILLER, *D. C.*

Marshal's return.

Received April 19th, 1842, and executed May 5th, 1842.

A. MILLER, *Marshal*,
By deputy J. S. GOOCH.

And afterwards, to wit, on the tenth day of January, A. D. 1844, George S. Robbins and Samuel Painter, by their solicitors, filed their answer herein to complainants' bill of complaint in the words and figures following, to wit:

To the honorable the judges of the circuit court of the United States, for the southern district of Mississippi, sitting in chancery.

The answer of George S. Robbins and Samuel Painter to the bill of complaint of Wm. T. Walker, Samuel M. Puckett, and Jno. Long.

These respondents, saving and reserving to themselves all benefit of exceptions to the many errors, &c., in said bill contained, answer to

so much thereof as they are advised it is in any way material for them to answer, they answer and say, that true it is, as stated in said bill, that they instituted suit and recovered judgment on said promissory note mentioned in said bill, on the law side of this court, and they insist upon said judgment as conclusive upon the parties, no sufficient excuse being shown by said complainants in said bill for not making their defence at law, if any they had or have, and these respondents crave the full benefit of this objection as if they had formally relied on the same by way of plea or demurrer. These respondents further answering say, that since the rendition of said judgment they have made an assignment of all their effects for the benefit of their creditors to Lloyd W. Wells, Abijah Fisher, and Robert H. McCurdy, of the city of New York, and that said assignment includes this debt. These respondents further say, that the said bill contains the first intimation they ever received of any want of consideration for the note therein alluded to; their former partner, Nathan N. Green, was universally considered, both in New York and Mississippi, to be an honest man and correct merchant. These respondents know positively that Mr. Green had in his possession the amount of Brandon money for which he bargained with Shields; they know he paid it over to some person, and they have no doubt whatever that that person was Mr. Shields, whose note, as described in said bill, he enclosed to respondents by mail in a few days after he received it, and stated in his letter enclosing it that he had paid Mr. Shields the amount in uncurrent or Brandon money, the value of which is correctly stated in said bill, although it answered as respondents believe the purpose of said Shields at par. Respondents further say, that immediately on hearing of the death of Mr. Green in October, 1839, one of them, (S. Painter,) proceeded to Mississippi to take charge of the business of the firm, and after a full and careful examination of its affairs, found no paper or memorandum left by Mr. Green of the said note, or the money paid for it, and the whole amount of uncurrent money left by Mr. Green did not exceed $200; said Painter spent the greater part of his time in Mississippi for two years from November, 1839, and believes that the fact of his being there attending to the business left unfinished by Mr. Green was generally known to the debtors of the firm; and respondents assert that complainant's bill gave them the first intimation of any pretence that Shields had not received the money from said Green for said note. They further state, that Shields lived some time after the death of Mr. Green, and knew perfectly well the address of Robbins & Painter, and they believe that if he had not received the money he would, immediately on hearing of Green's death, have notified respondents of the fact, and claimed from them either the money or the note. From all these facts respondents feel fully warranted in denying, and do deny, the allegation in said bill that Shields did not receive said money; and your respondents would confirm their statements by appending to this answer the letters received from Green relating to this transaction, had they not been destroyed in May, 1841, by a fire which entirely consumed their office, books, and papers.

And these respondents, having fully answered the only material statement in said bill contained, pray that the injunction heretofore granted in this case may be dissolved, and they remitted to their remedies on the law side of this court for the recovery of the amount of said judgment, and to be hence dismissed with their reasonable costs, &c.

STATE OF NEW YORK,
City and county of New York.

This day personally appeared George S. Robbins and Samuel Painter, before me, Walter Edwards, a notary public for the city and county aforesaid, and made oath that all the matters and things set forth in the foregoing, as know[n] to them, are true, and that all the matters and things which they have stated upon the information of others they believe to be true.

GEORGE S. ROBBINS,
SAMUEL PAINTER.

[L. S.] Sworn before me this 5th day of September, A. D. 1843. Witness my hand and official seal, hereto affixed.

WALTER EDWARDS,
Notary public.

And afterwards, to wit, on the twenty-first day of May, A. D. 1844, the complainants, by their solicitors, filed their supplemental bill by leave of the court first had and obtained, in the words and figures following, to wit:

In the United States circuit court, for the southern district of Mississippi. On the chancery side.

WILLIAM F. WALKER, Samuel M. Puckett, and John Long,
vs.
ROBBINS and PAINTER.

Supplemental bill of complaint of Wm. F. Walker, S. M. Puckett, and John Long, to their original bill of complaint, filed in said court on the 15th day of April, 1842, against Robbins and Painter.

Inasmuch as the respondents, Robbins and Painter, in their answer filed on the 16th day of January, 1844, to the original bill of complaint of your orators, have shown to your honor that they, the said respondents, have, since the rendition of said judgment at law named in said original bill, *have* made an assignment of all their effects for the benefit of their creditors to Lloyd W. Wells, Abijah Fisher, and Robert H. McCurda, of the city of New York, and that such assignment includes the said note sued in said judgment at law, thereby disclosing by their said answer new parties in interest in said judgment at law. Your orators would therefore respectfully ask leave of your honor to file this their supplemental bill to said original bill; and that the said Wells, Fisher, and McCurda be made parties defendants to said original bill,

and that subpœna issue to bring the said Lloyd Wells and McCurda into court to answer the said bill.

WM. THOMPSON, *Solr.*

And afterwards, to wit, on the 4th day of May, A. D. 1846, the defendants, by their solicitors, filed their answer to the foregoing bill in the words and figures following, to wit:

To the judges of the circuit court of the United States, for the southern district of Mississippi. In chancery.

The joint and separate answers of Lloyd W. Wells, Abijah Fisher, and Robert H. Curdy, assignees of Messrs. Robbins and Painter, who are made parties defendant to a bill in chancery, filed in said court by William F. Walker, Samuel M. Pucket, and John Long, against the said Robbins and Painter.

These respondents, saving and reserving, &c., for answer to said bill say, they have no knowledge or information, nor has either of them any knowledge or information, concerning the truth of the said several matters charged in the said bill of complaint, otherwise than as they find the same represented by complainants in the said bill, but of said representations of the complainants, these respondents beg leave respectfully to require strict proof. And these respondents protest against having their rights and just claims in the said suit at law in any way involved in or embarrassed by any transactions the complainants may have had with any other parties, if in truth any such ever were. These respondents state that, from information obtained of sources in which they have the fullest confidence, they are led to the firm belief that the amount of said judgment, with interest, is now justly due from said complainants to these respondents. And these respondents, having no other knowledge or information in the matter of the said bill, therefore cannot answer further than to refer the court to the answer of Robbins and Painter, on which they rely in defence of said bill of complaint, and of which they beg leave respectfully to claim the full benefit, and pray the dissolution of the injunction granted in said cause and bill dismissed, and that they may be remitted to their rights at law.

LLOYD W. WELLS,
ABIJAH FISHER,
ROBERT H. McCURDY,
Assignees of Robbins and Painter.

STATE OF NEW YORK,
City and county of New York, ss.

This day personally appeared before me, Folker J. Beck, a notary public, in and for the State of New York, duly commissioned and sworn, dwelling in the city of New York, the within named respondents, and the said Abijah Fisher, and Robert H. McCurdy made oath, and the said Lloyd W. Wells, solemnly, sincerely, and truly declared

and affirmed, that the statements made in the foregoing answer in chancery, as of their own knowledge, are true; and those made from information derived from others, they believe to be true.

LLOYD W. WELLS,
ABIJAH FISHER,
ROBERT H. McCURDY,
Assignees of Robbins & Painter.

Sworn to and subscribed before me, this thirteenth day of October, 1845.

F. J. BECK, [L. S.] *Notary public.*

I, Folker J. Beck, the person who administered the foregoing oath, do hereby certify, that I was at the time of administering said oath, and am now, under and by virtue of the laws of the State of New York duly appointed and constituted a notary public, in and for said State of New York, duly commissioned and sworn, and dwelling in the city of New York, and that by said laws I am authorized to administer oaths.

F. J. BECK,
Notary public.

STATE OF NEW YORK,
City and county of New York, ss.

I, James Conner, clerk of the city and county of New York, do hereby certify, that F. J. Beck, before whom the annexed deposition was taken, was at the time of taking the same a notary public in and for said city and county of New York, duly commissioned and sworn, and authorized by the laws of this State to take the same; and that I believe the signature of said notary public thereunto subscribed is genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of the said county, the 31st day of October, 1845.

JAMES CONNER, *Clerk.*

And afterwards, to wit, on the 24th day of May, A. D. 1847, the complainants by their solicitor filed their amended bill, by leave of the court first had and obtained, in the words and figures following, to wit:

In the U. S. circuit court, for the southern district of Mississippi. On the chancery side.

W. F. WALKER
vs.
Robbins and Painter.

By way of amendment to his original bill in above stated case, your orator William F. Walker, asks leave to state, that since he made his affidavit to said bill, and placed the same in the hands of his honor Judge Gholson for an injunction, *that* he has conversed with John F.

Cook, the deputy marshal of said district, whose name is signed to the return of the execution of the writ in said case, who informs your orator that he cannot state positively that said writ was ever actually executed upon your orator, but is now under the impression that it never was executed upon him, but in the hurry of business was returned executed by him without in fact having been so done. That he will amend his return to that effect, if the court will permit him to do so. Your orator states positively that the writ in said case never was executed upon him either personally or by copy, nor did he know that he was sued otherwise than as stated in his original bill.

LOMBARD & HOWARD,
For complainants.

And afterwards, to wit, on the 25th day of October, A. D. 1847, the defendant Robbins, by his solicitor, filed his answer to said amended bill of complaint in the words and figures following, to wit:

To the judges of the circuit court of the United States, for the southern district of Mississippi. In chancery.

The separate answer of George S. Robbins, survivor of the late firm of Robbins, Painter & Co., one of the defendants to the amended bill of complaint of William F. Walker, complainant, against Robbins and Painter, and Lloyd W. Wells, Abijah Fisher, and Robert H. McCurdy, defendants.

This respondent, saving and reserving, &c., for answer to so much of the said amended bill as he is advised to answer, says:

That his said late partner, Samuel Painter, is dead; that he, this respondent, knows nothing of any of the matters in said amended bill alleged, nor has he any information in relation to any of them except from said bills, and cannot answer as to any of those matters either upon his information or belief, but requires strict proof as to those matters; he knows not and cannot say whether or not said Cook did execute said writ upon said complainant, nor what said Cook may state or has stated in relation thereto, nor whether or not any writ or process in said suit was ever executed upon said complainant; but respondent relies and insists upon the said return upon said writ and the said judgment and recovery in said action as a bar to any relief upon the matters in said bills, and submits that said complainant is precluded to deny the truth of said return, and estopped to deny his appearance and plea in said action, or to say that said attorney so acted without authority from said complainant.

And having answered, he prays that said injunction be dissolved with damages, and said bill dismissed, with costs allowed this respondent.

G. S. ROBBINS.

On this 12th day of October, 1847, personally appeared before me, George S. Robbins, who subscribed the foregoing answer in my presence,

and being duly sworn, did depose and say, that he had read the same and knew the contents thereof, and that the same was true of his own knowledge, except as to the matters therein stated upon information and belief, and as to those matters he believed it to be true.

ALEX. GARDINER,
U. S. commissioner for the so. district of New York.

UNITED STATES OF AMERICA,
Southern district of New York, ss.

I, Alexander Gardiner, clerk of the circuit court of the United States of America, for the southern district of New York, second circuit, do hereby certify, that I am well acquainted with the handwriting of Alexander Gardiner, whose name is subscribed to the annexed answer, and that the signature to the same [is] in his proper handwriting. And I do further certify, that he was at the time of signing the same a United States commissioner, duly appointed under and by virtue of the acts of Congress in such behalf made and provided by the circuit court of the United States of America, for the southern district of New York.

In testimony whereof I have hereunto set my hand and affixed the seal of the said circuit court, this 12th day of October, in the year of our Lord one thousand eight hundred and forty-seven, [L. S.] and of the independence of the United States the seventy-second.

ALEX. GARDINER, *Clerk.*

And afterwards, to wit, on the 25th day of October, A. D. 1847, the defendants Wells, Fisher, and McCurdy, by their solicitor, filed their joint and separate answers to said amended bill of complaint, in the words and figures following, to wit:

To the judges of the circuit court of the United States, for the southern district of Mississippi. In chancery.

The joint and separate answers of Lloyd W. Wells, Abijah Fisher, and Robert H. McCurdy, three of the defendants, to the original and amended bills of complaint of William F. Walker, complainant, against Robbins and Painter and these respondents, defendants.

These respondents, saving and reserving, &c., for answer to so much of the said bills as they are advised to answer, answering each for himself, say:

He admits the rendition and recovery of the said judgment at law, and that said Robbins and Painter did make an assignment of all their effects, including the said judgment for the benefit of their creditors, to their respondents; and respondents insist and rely upon the said recovery and judgment at law, as a bar to the relief sought or claimed in and by the said bills. He also admits the death of said Green and of said Shields as alleged in said bill.

He knows nothing of the consideration of said note nor of any of

the statements in said bill in relation thereto, or in relation to any agreement or statements of said Green or said Shields in relation thereto, in said bill mentioned; nor whether or not said complainant was served with process, or authorized an appearance to be entered, or a plea to be filed for him in said action at law; nor has he any information as to any of these matters, except by said bill and the statement of said Shelton, that said Walker did not object to his said act, when informed of it soon after said judgment was entered; and so respondent cannot answer upon his information or belief as to those matters, but requires strict proof as to each allegation in relation thereto. And respondent submits and insists, that complainant is estopped by the return to deny that said writ was executed upon him, and estopped by the said appearance and plea entered in his name.

And as to each and all other matters in the said bills set forth, he avers that he is wholly ignorant, except as informed by said bills, and cannot answer, either upon his information or belief, as to any of those matters, but as to them requires strict proof.

And having answered, these respondents pray that the said injunction be dissolved and the said bill dismissed, with damages and costs to them allowed, &c.

LLOYD W. WELLS,
ABIJAH FISHER,
ROBERT H. McCURDY.

On this 12th day of October, 1847, personally appeared before me, Lloyd W. Wells, Abijah Fisher, and Robert H. McCurdy, who subscribed the foregoing answer in my presence; and the said Lloyd W. Wells being solemnly affirmed, and the said Abijah Fisher and Robert H. McCurdy being duly sworn, did severally depose and say, that they had read the foregoing answer by them subscribed, and knew the contents thereof, and that the same was true of their own knowledge, except therein stated to be upon information or belief, and as to those matters they believed it to be true.

ALEX. GARDINER,
U. S. commissioner for the southern district of New York.

UNITED STATE OF AMERICA,
Southern district of New York, ss.

I, Alexander Gardiner, clerk of the circuit court of the United States of America, for the southern district of New York, second circuit, do hereby certify, that I am well acquainted with the handwriting of Alexander Gardiner whose name is subscribed to the annexed answer, and that the signature is in his proper handwriting. And I do further certify, that he was at the time of signing the same a United States commissioner, duly appointed under and by virtue of the acts of Congress in such behalf made and provided, by the circuit court of the United States of America, for the southern district of New York.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of the said circuit court, this 12th day of October, in the year of Lord one thousand eight hundred and forty-seven, and of the independence of the United States seventy-second.

[SEAL]

ALEX. GARDINER, *Clerk.*

And afterwards, to wit, on the 12th day of April A. D. 1848, the complainants, by their solicitor, filed their replications to the foregoing answers in the words and figures following, to wit:

United States circuit court, for the southern district of Mississippi, on the equity side of said court.

The replication of William T. Walker, Samuel M. Puckett, and John Long, complainants, to the answers of George S. Robbins and Samuel Painter, defendants.

These repliants, saving and reserving, &c., for replication to the answers of the said defendants, say that they do and will aver, maintain, and prove said bill, original, supplemental, and amended, to be true, certain, and sufficient in the law to be answered unto by the said defendants; and that the answers are very uncertain, evasive, and insufficient in the law to be replied unto by the repliants; without that, that any other matter or thing in the said answers contained, material or effectual in the law to be replied unto, confessed or avoided, traversed [or] denied, is true; all which matters and things these repliants are ready to aver, maintain, and prove, as this honorable court shall direct; and respectfully pray, as in and by their said bill, original, supplemental, and amended, they have already prayed.

WM. THOMPSON, *Solicitor.*

United States circuit court, for the southern district of Mississippi, on the equity side of said court.

The replication of William F. Walker, Samuel Puckett, and John Long, complainants, to the answers of Lloyd W. Wells, Abijah Fisher, and Robert H. McCurdy, defendants.

These repliants, saving and reserving, &c., for replication to the answers of the said defendants, say, that they do and will aver, maintain, and prove their said bill, original, supplemental, and amended, to be true, certain, and sufficient in the law to be answered unto by the said defendants; and that the answers are very uncertain, evasive, and insufficient in the law to be replied unto by the repliants; without that, that any other matter or thing in the said answers contained, material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true; all which matters and things these repliants are ready to aver, maintain, and prove, as this honorable court shall direct; and respectfully pray, as in and by their said bill, original, supplemental, and amended, they have already prayed.

WM. THOMPSON, *Solicitor.*

The following evidence was read on the trial of this cause, to wit:

Deposition of John F. Cook for complainants.

Interrogatories to be propounded to John F. Cook, a witness for the complainants, in the suit of William F. Walker, Samuel Puckett, and John Long, against George S. Robbins and Samuel Painter, as surviving partners of the late firm of Robbins, Painter & Co., and Lloyd W. Wells, Abijah Fisher, and Robert H. McCurdy, now depending in the United States circuit court, for the southern district of Mississippi, in chancery.

Interrogatory 1st. Are you acquainted with the parties to the above mentioned suit?

Interrogatory 2d. Were you or were you not acting as deputy marshal of the United States, in the southern district of Mississippi, in April, 1840; if yea, during what time did you act as deputy marshal aforesaid?

Interrogatory 3d. Look on the annexed certified copy of a writ from the United States circuit court, for the said district, marked "A," and state whether or not the original writ, of which the said paper annexed hereto, and marked "A," is a copy, ever came into your hands as deputy marshal as aforesaid; if yea, state where, when.

Interrogatory 4th. If you answer that the said original writ ever came into your hands as aforesaid, state all that you ever did with the same.

Interrogatory 5th. Was the return entered on the said writ, to which your name is subscribed, written by you; and by whom was the same written?

Interrogatory 6th. State the time when, and all the circumstances in which, the said return was entered on the said writ, and your name subscribed thereto.

Interrogatory 7th. State the names of all the defendants named in said writ on whom you served said writ; and did you serve or execute the same in any way on William F. Walker?

Interrogatory 8th. In what county were you during all of the sixth day of April, A. D. 1840, and during all the month of April of that year?

Interrogatory 9th. Was or was not William F. Walker, who is named in said writ, in Madison county, in the State of Mississippi, on the sixth day of April, A. D. 1840, or about that time?

Interrogatory 10th. Has or has not any thing occurred, since the return of said writ, to refresh your memory concerning the matters contained and referred to in the foregoing interrogatories?

WM. THOMPSON,
Solicitor for complainants.

Cross interrogatories on behalf of defendants.

Cross interrogatory 1st. State whether or not the matters stated by you, in answers to direct interrogatories, are stated upon your present

recollection, particularly as to dates; and state how you happen at this late day to know or recollect them.

Cross interrogatory 2d. State whether or not you returned the original writ, copy of which is referred to in direct interrogatories. If yea, did you then notice the returns thereon, and did you or not then suppose the same had been duly executed; if yea, state what has since then induced you to believe or suppose the same was not duly executed, if such be your belief; and state when and how you was induced to change your opinion on the subject; would you have returned said writ as executed, if such had not been the fact; and did you not, at the date of the return, have full knowledge of all the facts, so as to enable you to know, fully, whether or not said writ had been duly executed?

Cross interrogatory 3d. State whether or not you had not, at the date of said return, many writs to execute and return as deputy marshal; if yea, how many, or about how many such writs did you then so have to execute or return; and state how you can now say that due service was not made on said original writ, copy of which is referred to as aforesaid, when you thus had at the time so many other writs to execute and return; how can you now state from present recollection, which you did in this particular case?

Cross interrogatory 4th. Do you now say you did not sign your name to said return, as it purports, from said copy, to have been signed; if you did not sign it, how came your name to that return?

Cross interrogatory 5th. If you say your memory has been refreshed, as inquired after in 10th direct interrogatory, please state when, and how, and by whom it was so refreshed, and under what circumstances; state the particulars in which it has been refreshed; and state, also, whether your recollection is now full and distinct upon the matter, and what are the facts.

Cross interrogatory 6th. Do you know, or can state, any other matter, circumstance, or thing, material to, or of benefit to, the defendants in this cause, or any of them? If yea, state the same fully and at large, as if specially interrogated thereto.

GEO. L. POTTER,
Solicitor for defendants.

We agree that the deposition of John F. Cook may be taken in the State of Texas, or elsewhere, on the foregoing interrogatories and cross interrogatories, by any commissioner of the United States court, for any circuit or district, or by any judge or justice of a State court for any circuit, district, or county; the certificate of any such judge or justice, together with the certificate of the clerk of his court, to be sufficient evidence of his official capacity.

October 15th, 1850.

GEORGE L. POTTER,
Solicitor for defendants.
WM. THOMPSON,
Solicitor for complainants.

"A."

UNITED STATES OF AMERICA,
Southern district of Mississippi.

Circuit court, United States.

ROBBINS and PAINTER
vs.
JOHN SHIELDS et al.

"*Copy of summons ad respondendum.*"

UNITED STATES OF AMERICA,
Southern district of Mississippi, ss.

The President of the United States, to the marshal of the southern district of Mississippi, greeting:

We command you, without delay, to summon John Shields, William F. Walker, Keatley Saunders, Samuel M. Puckett, and John Long, citizens of the State of Mississippi, that they be and appear at the circuit court of the United States, to be held at the town of Jackson, in and for the southern district of Mississippi, on the first Monday of May next, to answer to George S. Robbins and Samuel Painter, citizens of the State of New York, of a plea of trespass on the case to their damage twelve thousand dollars, and that they do file their plea or defence with the clerk of said court on or before the meeting of the same, or judgment will be given against them by default, and have then there this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, the ninth day of March, [L. S.] A. D. 1840, and in the 64th year of the independence of the United States.

WM. BURNS,
Clerk.

(Marshal's return:) "Executed on John Long this 16th March, 1840.

WM. M. GWIN,
Marshal,
By E. M. WARD,
Deputy.

Executed on Wm. F. Walker, April 6th, 1840, personally, and on S. M. Puckett, April 10th, 1840; the other defendant named in this execution not found.

WM. M. GWIN, *Marshal,*
By his deputy, JNO. F. COOK.

UNITED STATES OF AMERICA,
Southern district of Mississippi, ss.

Circuit court, United States.

I, William H. Brown, clerk of said court, do hereby certify, that the foregoing is a true copy of the original writ issued in the case above stated, together with the marshal's return thereon, as the same now remains on file in my office.

In testimony whereof I have hereunto set my hand and affixed the [L. S.] seal of said court, at Jackson, this 15th day of October, A. D. 1850.

W. H. BROWN, *Clerk*,
Per CHS. H. ROGERS, *D. C.*

The answer of J. F. Cook, of the State of Texas, and county of Jackson, to certain interrogatories in the case of Robbins and Painter vs. W. F. Walker and others, in the circuit court of the United States, for the southern district of Mississippi.

Answer [to] first interrogatory. I am acquainted with Wm. F. Walker.

Interrogatory 2d. I was acting as deputy marshal in Mississippi in April, 1840.

Interrogatory 3d. Such a writ came into my hands some time in the latter end of March, 1840, in the county of Madison.

Interrogatory 4th. I executed said writ on S. M. Puckett on the 10th of April, 1840, and then returned the same to court.

Interrogatory 5th. The entry made on said writ, to wit, "Executed on W. F. Walker April 6th, 1840, personally," has not my signature, and was written by J. M. Slaughter.

Interrogatory 6th. I had a very heavy business to the May term, 1840; many writs; and, to make myself convenient to Canton, I made my home at W. H. Slaughter's, near that place; after being out all day attending to the duties of my office, on my return at night my practice was to take out my papers and make such entries upon them as was necessary; J. M. Slaughter, who lived there, often assisted me in writing, and would make the necessary entries of service on writs, and I had nothing to do but assign them; among those entries made by him is the one in this case in these words, "Executed on W. F. Walker, 6th April, 1840, personally; on examining this entry, I did not assign it, as I had not perfected service, as entered thereon; I did not erase said entry, but let it remain, thinking I would be able to serve him before I had to make my return to court; on the 10th April, I served the writ on S. M. Puckett, which *served* I assigned, not intending to confirm by that signature the service on W. F. Walker.

Interrogatory 7th. I served S. M. Puckett; I did not serve said writ on W. F. Walker.

Interrogatory 8th. I was in Madison county all of the 6th day of April, 1840, and all the month of April.

Interrogatory 9th. W. F. Walker was absent from Madison county on the sixth day of April, 1840; nor did I see him in said county before I made my return of said writ to court.

Interrogatory 10th. There has nothing occurred to refresh my [memory] of the facts, as stated in my answers.

JNO. F. COOK.

Sworn to and subscribed before me, this 30th day of October, 1850.

JOHN M. WHITE,
J. P., Jackson county.

STATE OF TEXAS, *county of Jackson.*

I, George R. Billups, clerk of the county court, do hereby certify, that John M. White was an acting justice of the peace for the county aforesaid, at the signing of the annexed answer to cross interrogatories in the case of Robbins and Painter vs. W. F. Walker et al.

To certify which I hereunto sign my name and affix the [L. S.] seal of the county court, this 30th October, A. D. 1850.

GEORGE R. BILLUPS, *Clerk.*

Answer of J. F. Cook to cross interrogatories on behalf of defendants.

Cross interrogatory 1st. The facts, as stated by me in answer to the direct interrogatories, are full and fresh in my memory, having often thought of them with much mortification.

Cross interrogatory 2d. I did return the original writ; and, as I have answered to the 6th direct interrogatory, that the entry of service was written by J. M. Slaughter in these words, "Executed on W. F. Walker, 6th April, 1840, personally;" on examining this entry I did not assign it, as I had not perfected service as entered thereon; I did not erase said entry, but let it remain, thinking I would be able to serve him before I had to make my return to court; on the 10th of April, 1840, I served the writ on S. M. Puckett, which service I assigned, not intending to confirm by that signature the service on W. F. Walker; at the time I returned said writ, I returned all that was in my hands, and failed to erase the entry made by J. M. Slaughter in these words, "Executed on W. F. Walker, 6th April, 1840, personally;" on the day that judgment was entered up against W. F. Walker he came up to me, and said I had made a return of service in this case that had never been made; and [was] wholly astonished, saying that he never heard of such a suit until judgment had been rendered; that [he] even had no lawyer to attend to it, not knowing that such a suit was in existence; I stated the facts to him then that I have stated to the direct interrogatories, and that I would so state in court; at the time of the entering up of the judgment, I was out of office.

2672.

Cross interrogatory 3d. I had a great many writs to return as deputy marshal; the precise number I cannot state; but, as stated before, I had at the time a distinct recollection that I had not served this one on W. F. Walker, as I knew he was not in the county at that time, and I now recollect distinctly the mortification I was then under for the mistake or neglect in the case.

Cross interrogatory 4th. I say that to the service as relates to W. F. Walker, as entered on the 6th of April, I did not assign at the time, or on the day of said entry, nor did I intend to assign it until I had perfected service; on the tenth, from the return, I served it on S. M. Puckett, and assigned that service, but did not think that my signature to that confirmed the entry made by J. M. Slaughter in these words; "Executed on W. F. Walker, April 6th, 1840, personally," as such service was not made by me at that time or any other.

Cross interrogatory 5th. My memory as to facts stated in answer to the 10th interrogatory has not been refreshed, as I have often thought of them, as I stated, and is now full and distinct upon the matter. The facts are as stated in my answer.

Cross interrogatory 6th. I know nothing.

JNO. F. COOK.

Sworn to and subscribed before me this 30th day of October, 1850.

JOHN M. WHITE,
J. P., Jackson county.

STATE OF TEXAS,
Jackson county.

I, George R. Billups, clerk of the county court, do hereby certify, that John M. White was an acting justice of the peace for the county aforesaid, at the signing of the annexed answers to interrogatories in the case of Robbins & Painter vs. W. F. Walker et al.

To certify which I hereunto sign my name and affix the seal of the county court, this 30th October, A. D. 1850.

[L. S.]

GEORGE R. BILLUPS, *Clerk.*

Deposition of David Shelton for defendants.

In the circuit court of the United States, southern district of Mississippi.
In equity.

WM. F. WALKER et al.
vs
GEORGE S. ROBBINS et al.

Interrogatories to David Shelton, esq., whose deposition will be read as evidence on behalf of the defendants in the above stated case on final hearing.

First. Were you or not employed as an attorney to put in a plea and defend a suit in the circuit court of the United States for the southern district of Mississippi, on the law side of said court, in which Rob-

bins & Painter were plaintiffs, and John Long, S. M. Puckett, Wm. F. Walker, et al. were defendants, on a promissory note for six thousand dollars, payable to Robbins, Painter & Co., on the 1st March, 1840? If aye, please state by whom you were employed, and whether the complainant, Wm. F. Walker, knew of your engagement, and that you had put in a plea for him as well as the other defendants, and whether or not he knew this fact before as well as after the rendition of said judgment at law; please state all you know on the subject.

Second. If you know any thing more material for defendants, please state it fully under this general interrogatory.

R. M. GAINES, *for defendants.*

I agree that the answers of David Shelton, esq., to the foregoing interrogatories may be read as his testimony in the cause which is stated in the caption of the said interrogatories.

May 13th, 1840.

WM. G. THOMPSON,
Solicitor for defendant Walker.

Answer to 1st interrogatory. I am unable from memory to fix dates, but I remember that several years since I was employed by John Long to defend a certain suit then pending in the United States circuit court at Jackson. The style of that case was, I think, either Robbins and Painter, or Robbins, Painter & Co., against John Long and others, or against John Shields and others. It was founded on a note made by John Shields, John Long, and William F. Walker, and, I think, some other name or names, but I do not remember who. At the time I was employed by Long, I was informed by him that there was a defence to the suit; and, as well as I remember, that defence was of this nature: the note had been made and delivered to an agent of Robbins and Painter, in consideration of a sum of the Mississippi and Alabama Railroad and Banking Company's bills, to be sent out to John Shields, at Jackson, by said agent from Vicksburg, which bills were, in fact, never sent. Said Long told me to put in pleas, or a plea, for all the defendants served with process, so as to keep a judgment from going by default; and, as well as I remember, spoke of some reason why a plea should be filed by me for Walker, and stating, at the same time, that William Seiger would be associated with me in the defence of the case, and employed by Walker. Upon examination, I found the process had been served upon Walker, and accordingly entered the plea for him, as well as for Long. Afterwards, I think some time afterwards, for I do not believe that the cause was tried at the first term after it was brought, I met both Walker and Long in Jackson, and I spoke to them both, and in each other's presence, about the defence of the case; and in that conversation it was repeated, by either Long or Walker, that William Seiger would be associated with me in the defence of the case, and also one or two questions likely to arise in the case, one of which was the question whether some one of the

makers of the note, I think John Shields, could by any means be made a competent witness for his sureties, Long and Walker. This was the only conversation that I remember ever to have had with Walker on the subject. I had frequent conversations with John Long, who, and who alone, I considered my client, but he never brought to my knowledge, or into court, any evidence to establish the facts relied on by him in his conversation with me, which were, in substance, as above stated; and finally the case was disposed of without an investigation of the facts, there being, I believe, no evidence introduced on the trial, if one was had by the defendants, nor any attempted to be introduced.

Answer to 2d interrogatory. I know nothing further that I am conscious would be material to either party.

D. SHELTON.

Sworn to and subscribed before me, this 13th day of May, 1848.
J. P. OLDHAM, *J. P.*

And afterwards, to wit, on the 6th day of May, A. D. 1850, at rules, on application of the defendant, by James and Addison and Geo. L. Potter, their solicitors, this cause was set for hearing on bills, answers, and proofs.

And afterwards, to wit, at the said May term of the court aforesaid, to wit, on the thirteenth day of May, in the year of our Lord one thousand eight hundred and fifty-one, the following order was entered on the minutes of said court, in the words and figures, to wit:

WILLIAM F. WALKER et al.
vs.
GEORGE S. ROBBINS et al. } In chancery.

Death of complainant, John Long, and defendant, Samuel Painter, suggested, and cause abated as to them.

And afterwards, to wit, at the said May term of the court aforesaid, to wit, on the thirteenth day of May, in the year of our Lord one thousand eight hundred and fifty-one, (until which time this cause was legally continued,) the final decree of this court was rendered in this case, in the words and figures following, to wit:

WILLIAM F. WALKER et al.
vs.
GEORGE S. ROBBINS et al. } 78.

In chancery, May term, A. D. 1851.

This cause coming on to be finally heard before their honors, Peter V. Daniel and Samuel J. Gholson, judges presiding, upon the bill and amended and supplemental bills of complainants, the answers thereto,

and the replications and the proofs in the cause, on the 13th day of May, A. D. 1851, after the cause had been duly abated as to complainant, John Long, and defendant, Samuel Painter, upon order of solicitors of surviving complainants, and the same being argued by counsel for both parties, and the court fully advised thereon, the court being of opinion that complainants have not shown themselves entitled to any relief, nor either of them, doth order, adjudge, and decree that the injunction heretofore granted in this cause be, and the same is hereby, dissolved, and the said bills dismissed, at the costs of the complainants.

And it is further ordered, that the defendants do have and recover of and from the complainants their costs in this suit, to be taxed, and that they have execution as at law therefor.

Ordered, adjudged, and decreed, this 13th day of May, A. D. 1851.

P. V. DANIEL,
S. J. GHOLSON.

From which decision the complainants pray an appeal to the Supreme Court of the United States, which is granted, upon their giving bond according to law; and, by consent, Lawson F. Henderson approved as security on the appeal bond herein.

Copy of appeal bond.

Know all men by these presents, that we, William F. Walker, Samuel M. Puckett, and Lawson F. Henderson, are held and firmly bound to George S. Robbins, Lloyd W. Wells, Abijah Fisher, and Robert H. McCurdy, in the sum of twenty-three thousand and five hundred dollars, [lawful] money of the United States, to be paid to the said George S. Robbins, Lloyd W. Wells, Abijah Fisher, and Robert H. McCurdy, their executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this sixteenth day of May, A. D. 1851.

The condition of this obligation is such, that whereas, at a term of the circuit court of the United States, for the southern district of Mississippi, commenced and held at the city of Jackson, on the first Monday of May, A. D. 1851, a final decree was rendered by said court, sitting in chancery, in favor of the said George S. Robbins, Lloyd W. Wells, Abijah Fisher, and Robert H. McCurdy, defendants, against the said William F. Walker and Samuel M. Puckett, complainants, dismissing the bill of complaint of the said complainants, and dissolving the injunction which had been granted on the said bill in the said suit, to restrain the collection of a judgment at law, rendered in the said circuit court on the nineteenth day of November, A. D. 1841, for the sum of six thousand eight hundred and twenty dollars and costs of suit, in favor of the said George S. Robbins and one Samuel Painter, since de-

ceased, against the said William F. Walker and Samuel M. Puckett, and one John Long, since deceased; and whereas the said William F. Walker and Samuel M. Puckett have prayed for and obtained an appeal from the said final decree to the Supreme Court of the United States, which appeal is granted upon the executing of this bond according to law, with the above named Lawson F. Henderson as surety herein.

Now, if the said William F. Walker and Samuel M. Puckett shall prosecute their said appeal to effect, or in case they fail therein, shall well and truly pay and satisfy the said judgment at law for the said sum of six thousand eight hundred and twenty dollars, with all interest and costs; and also all damages, interest, and costs in the said suit in chancery, and all such damages and costs as the said complainants, or either one, or any of them, in the said suit in chancery may sustain, by reason of the prosecuting of this appeal, and all such damages, interest, and costs as the said Supreme Court of the United States shall adjudge in the premises, in case the said William F. Walker and Samuel M. Puckett shall fail to make their plea good, then and in that case this obligation to be void, otherwise to remain in full force and effect.

W. F. WALKER, [SEAL.]
LAWSON F. HENDERSON. [SEAL.]

Witness—GILBERT COATES.

I approve of the foregoing bond and security. Given under my hand, this 16th day of May, A. D. 1851.

S. J. GHOLSON,
U. S. D. C. for Miss.

UNITED STATES OF AMERICA,
Southern district of Mississippi.

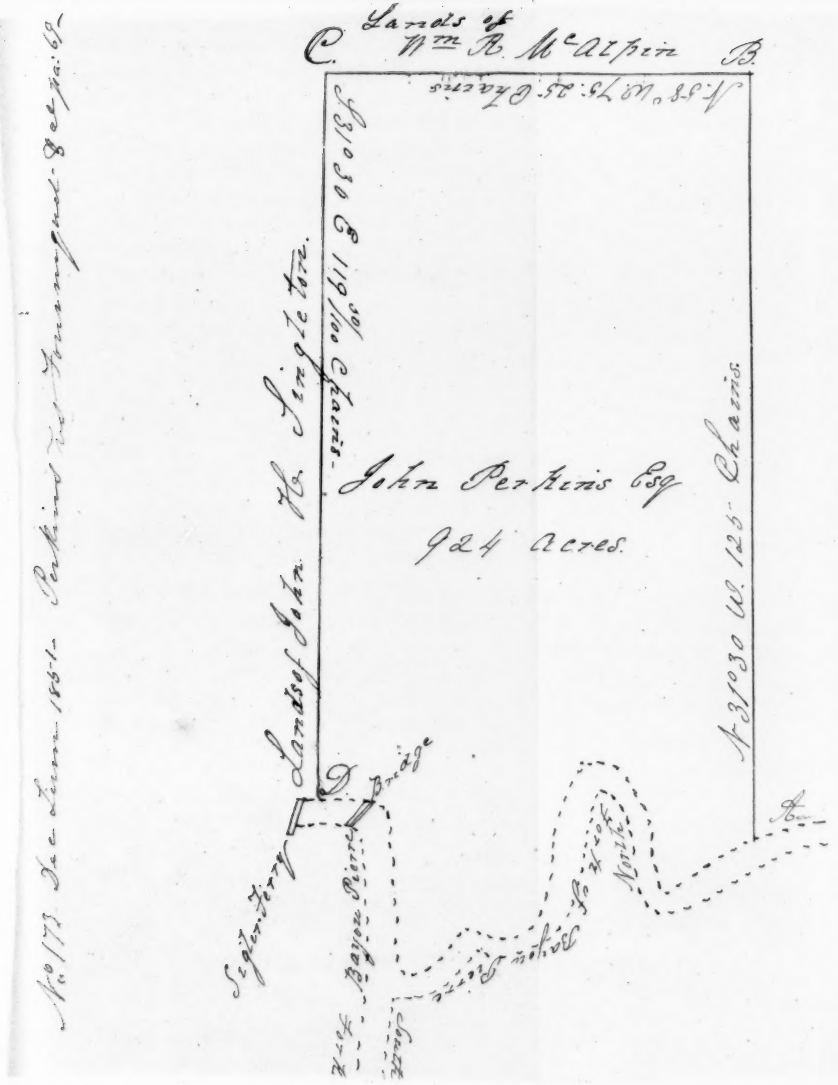
Circuit court of the United States.

I, William H. Brown, clerk of said circuit court, do hereby certify, that the foregoing thirty-nine pages, contain a full, true, and complete transcript of the record of the final decree in the case therein named, as the same now remains of record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Jackson, this 15th day of December, [L. S.] A. D. 1851, and of the independence of the United States the seventy-sixth.

W. H. BROWN, *Clerk.*

No 173 Jas Dixon 1851 Perkins Co Nebraska Surveying Dist Township No 8 Range 69



Scale 40 Chains per Inch

References.

A. a post from whence a red oak bears N. 32° E. 41 links, Black gum N 65. W. 44. Dogwood S 19. W 56 —

B. a post from whence a Lynn bears N 26° W. 15 lks. Lynn bears S. 57. W. 29 —

C a post from whence a Hickory bears N. 68. E. 40 links —

D. a post from whence a sweet gum bears N 29 W 73 links

all of which reference trees are marked — X III —

Survey No. 1572

4 Poles Chain
A scale of 50 links to an inch

Andrews

Post

Post

99 26/100 Acres

Mississippi River

Cotton wood
X X III

Elm X X III

White oak X

Ash 40" X 4 ft. 50

I certify that the foregoing plat with field notes together with the attached plat of survey by C. C. Stone deputy surveyor was received into my office and recorded on the 22 June 1858

T. Wood Clk by Dorlata Young

Surveyed for Thomas Gray Jan 1858

S. Abraham Solicitor Jan. 1858

C. C. Stone

Deputy Surveyor

No. 183. Cunningham vs Ashley & Beebe pa: 341

Exhibit B. B. to R. Beebe's answer

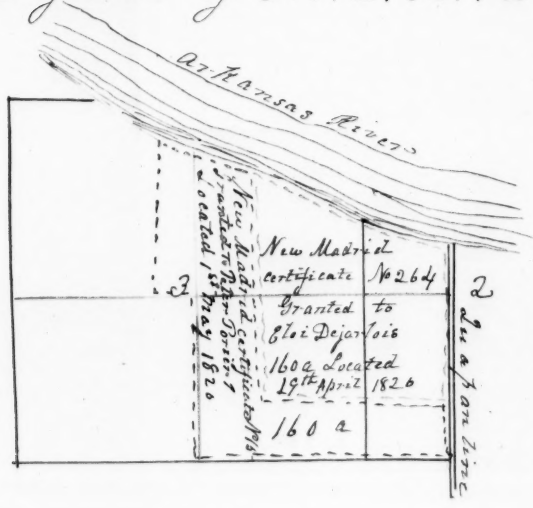
No 1.

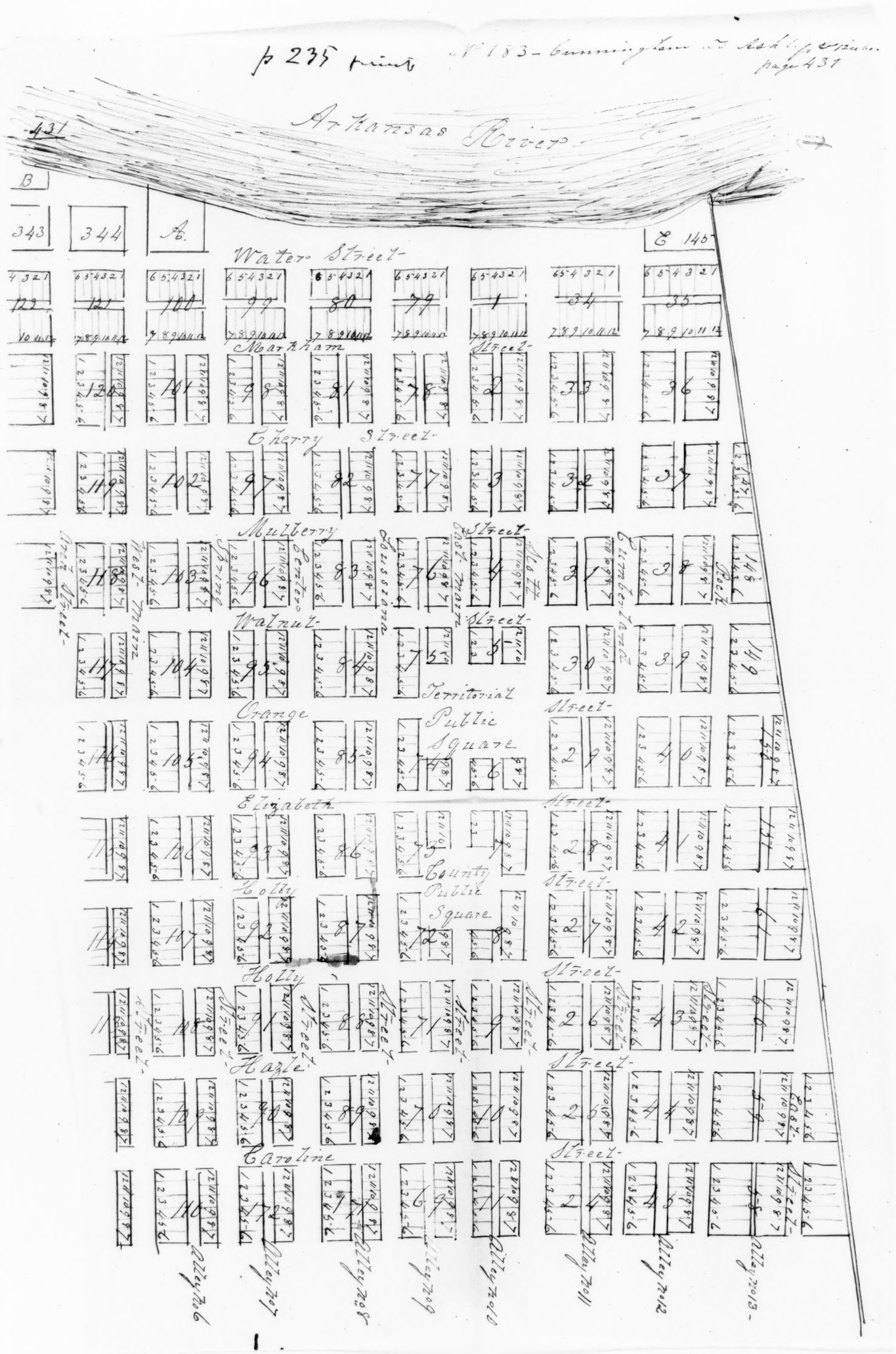
Diagram of Part of T. 1. N. R. 12 W.

Arkansas River
95.63 a
N.E. fr 1/4 Sec 3
Sec. 3
30.02 a
S.E. 3. 160 a
Patented to Roswell Beebe, Sept 25th 1839 per certificates No 3554. No 3549.
65.68 a
Levee
2. Mrs Eliza Cunningham's house, built upon a lot of ground conveyed to her by Chester Ashley, in the 23rd day of February 1831.

No 2

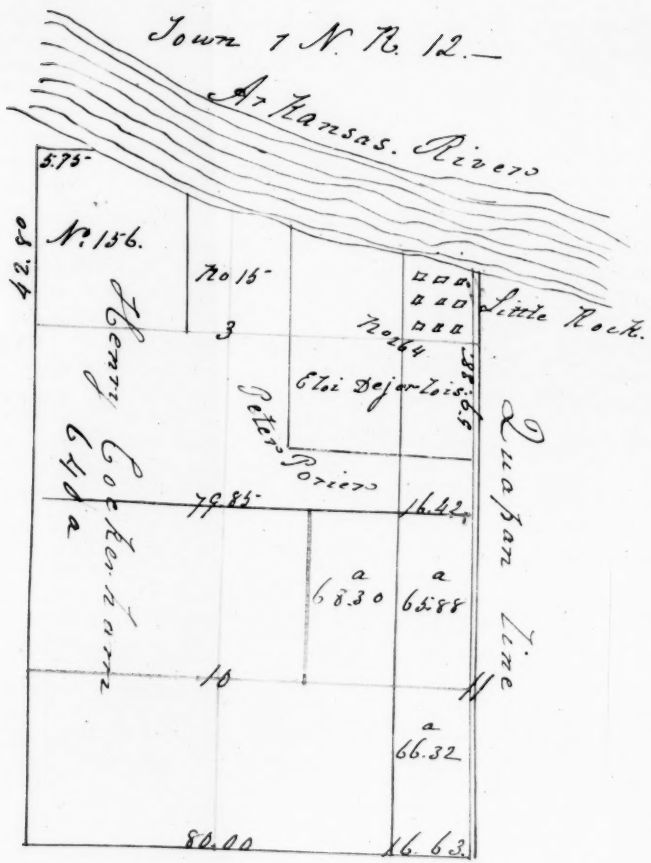
Diagram of Part of T. 1 N. R. 12 W.


Arkansas River
New Madrid certificate No 264 granted to Eloi Dejarvois 160 a located 19th April 1826
160 a
New Madrid certificate No 3 granted to Robert Ran Portion located 15th May 1820
2
Levee


p 235 print
N° 183 – Cunningham & Nash's Survey. page 431
431
Arkansas River
B
343
344
A.
C 145
Water Street
Market Street
Cherry Street
Mulberry Street
Walnut Street
Orange
Public Square
Territorial
Elizabeth
County Public Square
Holly
Hazle
Caroline
Alley No 11
Alley No 12
Alley No 13

Nov 183–

Cunningham vs Bailey et al – pa 625



p 344 print

Map
of part of
Valley Falls Village R. I.

Surveyed by Richard Sharp & Plotted by A.D. Eastlick

Approved to in the Bill in Equity

Elisha Chace

Henry Anthony Dyer

Stephen Hall's Land

Stephen Hall's Land

N. 79½ E. 156 feet to centre of Iron Pipe Street

S. & J. Wilkinson

William Harris

N. 79½ E. 259½ Feet

Arnold Bates

B. Sherman

J. Haskins

Land of S. & J. Wilkinson

Valley Falls & Pawtucket Turnpike

S. 25½ E. 370

S. 78 W. 219

A. & H. Mowry

Land of S. & J. Wilkinson

Land of Wm. Harris

Land of S. & J. Wilkinson

Land of Boss Mills

Land of Albertus Rose Company

Land of Boss Mills

Land of Boss Mills

Land of Boss Mills

Copy
Plat of the Valley Falls Mill Estate
Smithfield. R.I.
by Sam: B. Cushing.
May. 1850.

A. Annexed to and made part of the Deposition
of Sam: B. Cushing - June 1st 1850. -
before me. Joseph L. Pitman. Commissioner

Barn.

Barn.

Providence & Worcester R.R. Co.

Dwelling House

Dwelling House

Doctor's Office.

Valley Falls.

White Oak Tree

Abutments

Main Road

Bridge

French

Rail Road

Providence

Wooden Mill

Merchants Lower Mill

Old Mill

Merchants Upper Mill

French

Merchant's Brick Mill.

Race way

Race way

Turnpike

The Allen Lot owned by Chace.

Engine House

Chimney

Built Head Gates

Main Road

Arch.

Providence & Worcester R.R. Co.

Main Road Bridge.

Turnpike Bridge.

Valley Falls Dam.

B L A C K S T O N E R I V E R.

The land within the Red border belongs to Chace.
" " " " Yellow " " " Marchant.

Scale 50 feet to an Inch.

7

B.

annexed to the Deposition and made a part
thereof of Samuel B Cushing June 1850 before
Joseph S Pitman
Commissioner

CUMBERLAND

Chace's Mill

Weave Shop

Chace

Machine Shop & Dressing Room.

Covered Flume 6 feet wide Leading to the Abbott Run Race

Race

Race Road Bridge

This land is from 50 feet higher than bottom of Chace's Land belonging to Abbott's Run Company.

Way

Abbott's Run Company

BLACKSTONE RIVER

Tuttapixet Bridge 194 ft.

Valley Falls Dam. contains 1875 ft 4 inches

Valley Falls Pond.

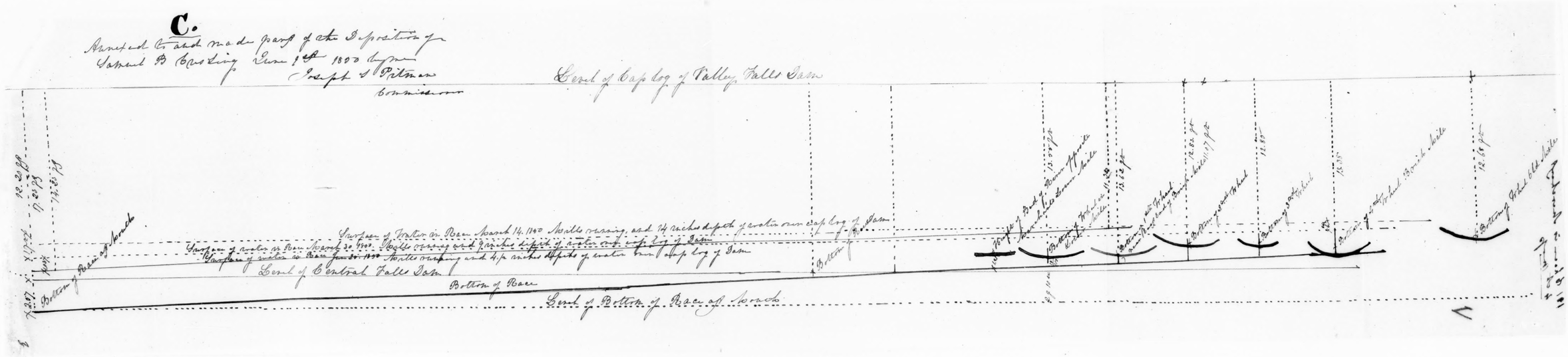
SMITHFIELD

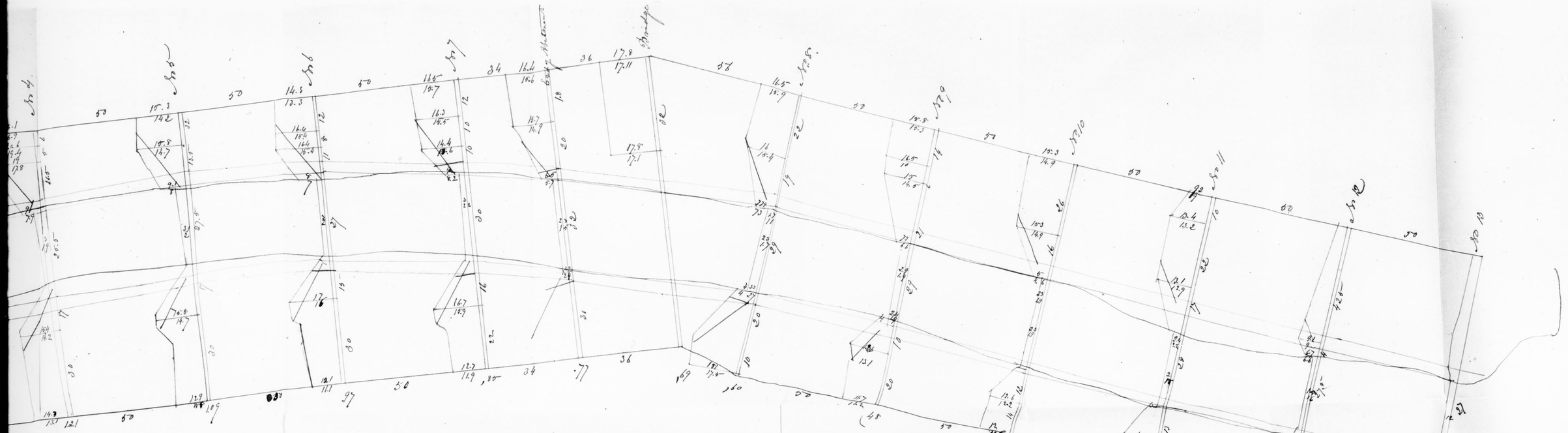
Scale 50 feet to an Inch.

8

C.

Annexed to and made part of the Deposition of
Samuel B Easterly Esqr 1st Aug 1850 before
Joseph S Pitman
Commissioner


Level of Cap log of Valley Falls Dam
Surface of Water in Race March 14. 1850 Needles resting, and 14 inches depth of water over Cap log of Dam
Surface of water in Race March 20. 1850. Needles resting and 2 inches depth of water over Cap log of Dam
Surface of water in Race June 1st 1850 Needles resting and 4 1/2 inches depth of water over Cap log of Dam
Level of Central Falls Dam
Bottom of Race
Level of Bottom of Race at Abutments
Bottom of Race at Abutments
Top of Bank of Stone Abutments
Bottom of Race
Top of Bank of Stone Abutments
Bottom of Race
Top of Bank of Stone Abutments
Bottom of Race



1818 cubic yards of excavation on the bottom
1175 - banks including 6 Ld. Wales
2993 Total

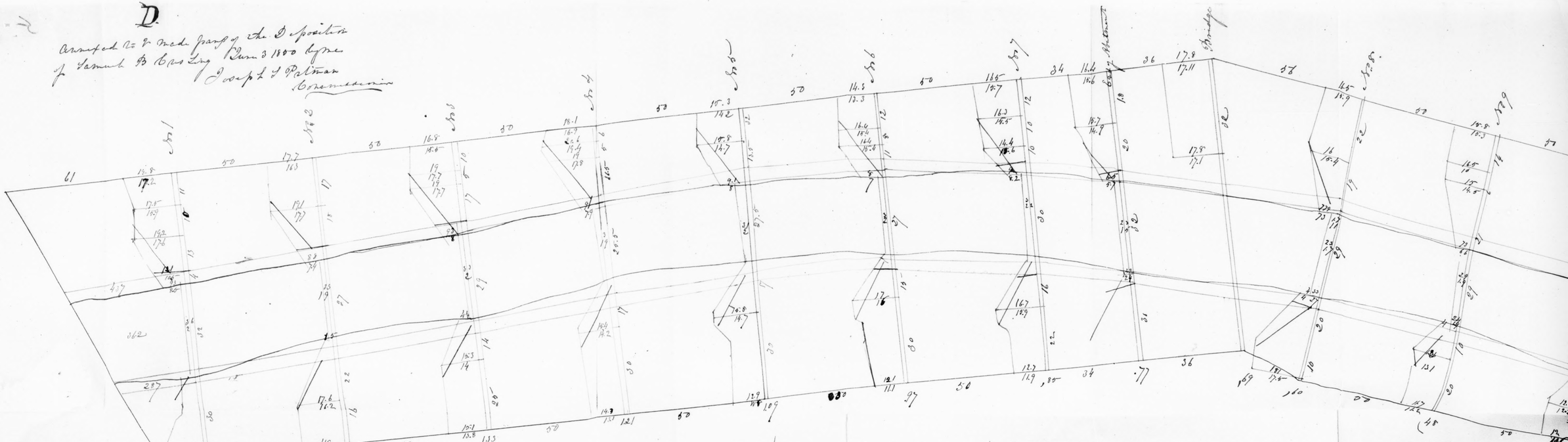
488 Yards of Bottom to be saved by elevating the crown of the Race / projection the piers assumed in the previous calculation as indicated in the drawing - No allowance is made for contracting the space between arch at the ground below or either case.

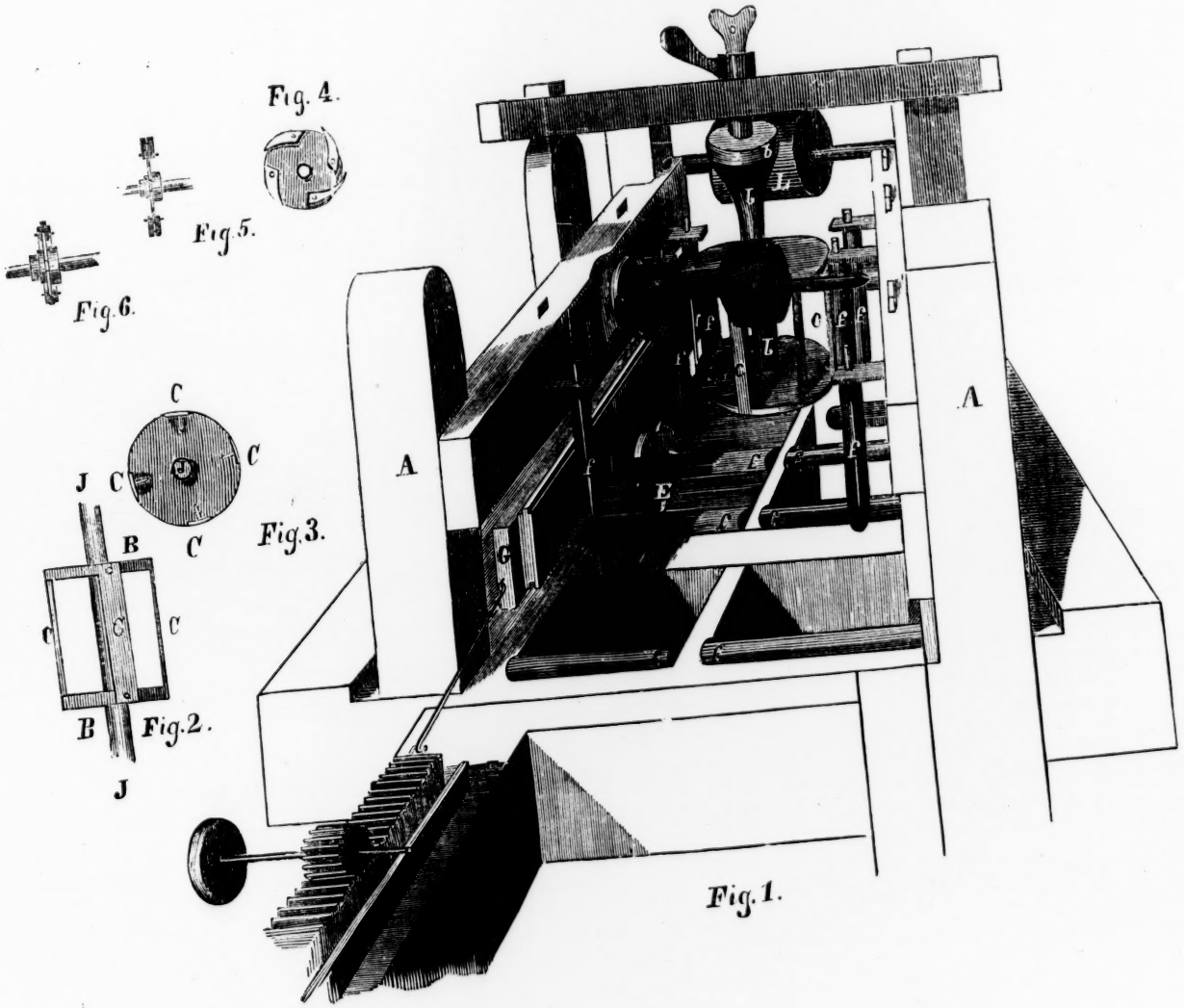
Retaining Walls on the right-hand side of the Race

Retaining Walls on the left-hand side of the Race

D.

Accepted as a modification of the Disposition
of Samuel B. Reading Dec. 3 1800 by me
Joseph L. Pattison
Commissioner




A
A
Fig. 1.
Fig. 2.
Fig. 3.
Fig. 4.
Fig. 5.
Fig. 6.

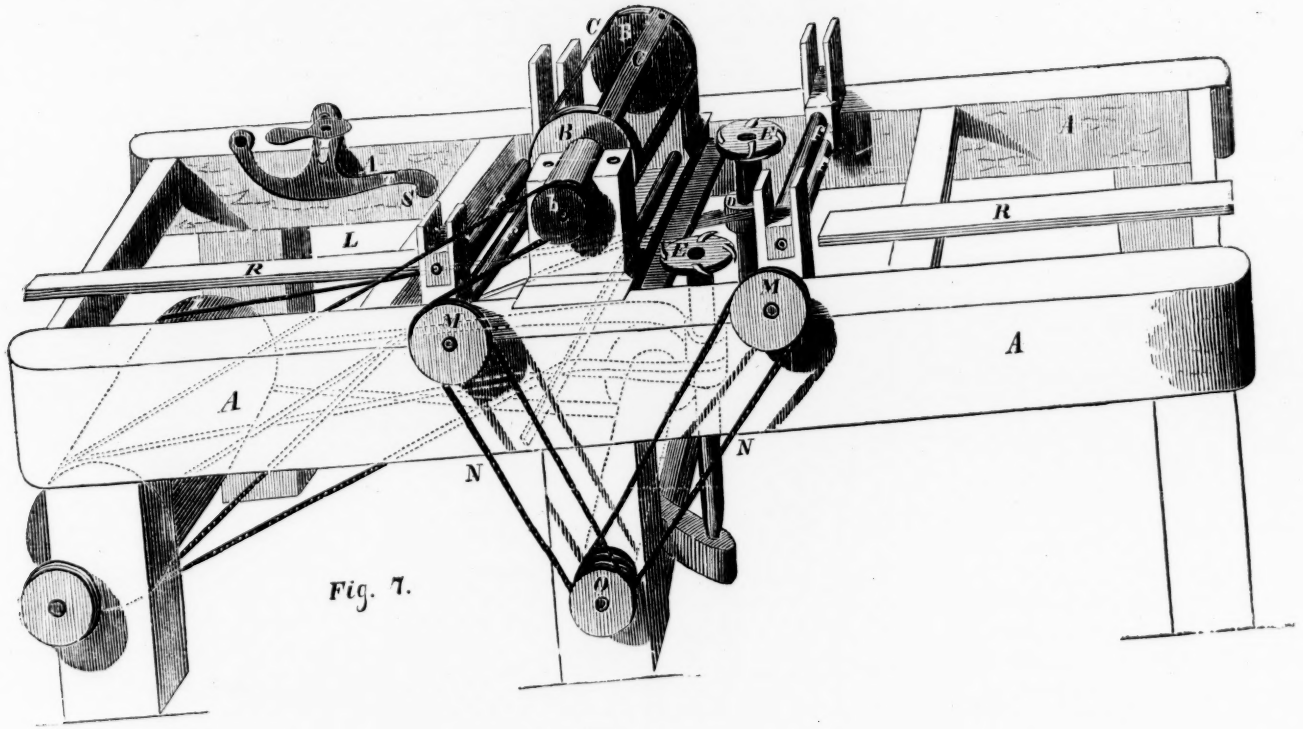


Fig. 7.

(49)

No 210 Z. 2

Bast Prop.

North Magnetic

N. 52 E. 14 leagues & ½ mile

G.

The Pancoast 100.000 acres

Line

A n d r e w s

C

33 ½ deg. of North Latitude

Ed Livingston 117.000 acres

B o s s ' o p s

N. 38 W. 6 leagues.

Bayou Bonne Idée

Washita River

Bayou Bartholemew

M o r e h o u s e

Col. Abm. Morehouse 400.000 A.

Bayou Lafourche

Bayou Boeuf

Bayou Boeuf

Bayou Lafourche

A.

B Bayou

C

S. 65 E 3 leagues 1 mile

D.

N 52 E 12 leagues

E.

Bastrop Grant.

Scale of 6 miles to an Inch

N 52 E 12 leagues

S 38 W 7 leagues

№ 210 D. T. 1857
U. States vs. Carr's Exr's
pa. 37.

Claim of The Baron De Bastrop —

Bayou Osage —

Hans Peter 221 acres — Sour foor Hill & Levy 1120 acres — Peter Harrison 399 acres — Long & Lyons 7 acres — Hans Peter 100 acres — Peter Harrison 100 acres — Hans Peter 18 acres

Claim of The Baron De Bastrop —

(N 38 W (6 Leagues)

A — B — E

Riviere 45.000 arpens

40.000 Armory Callmare & Nott.

E. Livingston 53113 arps.

David Williamson 16.167 arps.

James Petit Esqr 38.670 arps.

Bayou Dolliak

Bayou Macon

A. B. Franklin

Gen. John Adair

Jno. Nancarrow 100.000 arps.

Stephen Wantz 120.000 arps.

Barnas Sink

P. L. Jones

Davisac 3000 arps.

Davisac 3000 arps.

Ceras. 10.000 arps.

Stephens 5.000 arps.

Leonard Claiborne 12.000 arps.

L. Claiborne 12.000 arps.

The Heirs of John W. Gurley decd

40.000 arps.

Bayou Bartholomew

Hopkins 400 № 106.

N 52 E 14 Leagues (8 1/2 miles)

North Boundary of the Territory of Orleans

Chas. Livingston 127.827 arps

Gil Abraham Monrouse 400.000 arps.

Bayou Bartholomew

Bayou Macon

Bayou Boeuf

Ouachita River

F.

D.

N 52 E 12 Leagues (8 miles)

Riviere 45.000 arpens

40.000 Armory Coltmire & Nott.

E. Livingston 5311.3 arps.

David Williamson 16.167 arps.

P.L. Jones 5 3/4 arps

Bayou Dollar

Bayou Macon

James Brown Esqr 36.670 arps

J. B. Franklin

Jno. Nancarrow

100.000 arps.

Thos. Wm.

120.000 arps.

Gen. John Adair

Leonard Claiborne

12.000 arps.

L. Claiborne

12.000 arps.

P. L. Jones

Davisac

3000 arps

Jarisac

3000 arps

Cenas

10.000 arps.

Stughes

5.000 arps.

The Heirs of John W. Gurley dec'd

40.000 arps.

Reservoir Bocuf

Bayou Bartholomew

Hopkins 800

Acres

Gol Abraham Morehouse

400.000 arps.

Bayou Bartholomew

Bayou Boeuf

Bayou Dollar

North Boundary of the Territory of Orleans

33 degrees North Latitude

Ed. Livingston

127.847 arps

Ouachita River

The Bastrop Claim

3 Leagues 41 Mile

S 60° E

N 52° E 12 Leagues

N 42° E 14 Leagues 18 1/2 Miles

Range
Township
Section
Meander
Meander
Meander

N 22½ W 14 Rods 8½ links

Chas. Bartlett's Claim

Creek

Creek

Creek